

## MEMORANDUM

TO: The Board of Environmental Protection

FROM: Andrew Flint, Bureau of Remediation and Waste Management

DATE: May 15, 2008

RE: Administrative Consent Agreement, Colby & Gale, Inc. and Day Block Trust

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**Statute and Rule Reference:** The *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S.A. § 543 states in relevant part: “The discharge of oil into or upon any...river, stream, sewer, surface water drainage, ground water or other waters of the State or any public or private water supply or onto lands adjacent to, on, or over such waters of the State is prohibited.”

The *Oil Discharge Prevention and Pollution Control law*, 38 M.R.S.A. § 550 states in relevant part: “Any person who causes or is responsible for a discharge in violation of section 543 is not subject to any fines or civil penalties if that person...reports within 2 hours and promptly removes the discharge in accordance with the rules and orders of the board or commissioner...”

**Location:** Day Block, 128 Main Street and the Damariscotta River, Damariscotta, Maine

**Description:** Colby and Gale, Inc. and Day Block Trust have entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of 38 M.R.S.A. § 543. In July of 2007, approximately 600 hundred gallons of oil were discharged to the Damariscotta River, the Damariscotta storm water drainage system, and soil beneath the Day Block building. Oil was observed discharging from a storm drain outfall pipe to the river. The source of the discharge was determined to be an oil return line that was improperly abandoned when Colby & Gale completed an emergency replacement of the furnace at Day Block in 2000. The oil leak from the abandoned line migrated from the basement of the Day Block building to a storm sewer under the sidewalk on Main Street, Damariscotta and then into the Damariscotta River. Subsequently, Colby & Gale and Day Block have worked cooperatively with the Department to resolve these violations and have:

- Submitted an application to the Ground Water Oil Clean up Fund and paid the assessed deductible.
- Brought the aboveground tank and heating system at the Day Block building into compliance with relevant regulations.

**Environmental Issues:** Prompt and proper discovery, investigation, and clean up of oil spills is critical to minimizing the risk of a petroleum discharge to the environment. Subsequent to the discharge, approximately 100 gallons of free phase oil was recovered from the Damariscotta River and the municipal storm drain system. Approximately three cubic yards of oil-contaminated soil were removed from the basement of the Day Block building.

**Department Recommendation:** The Department recommends acceptance of this Administrative Consent Agreement as proposed stipulating a monetary penalty of nine thousand dollars (\$9,000.00) and the following requirements:

- A. Ensure that the furnace and oil lines at Day Block conform with the Department's laws and regulations and relevant regulations administered by the Oil and Solid Fuel Board (02-381 CMR Chapters 1-14).
- B. Immediately report all oil spills for tanks in their custody or control to the Department of Environmental Protection within two (2) hours of discovery and, unless, clean-up actions have already been commenced by the Department, commence clean up of any oil spills from such tanks.
- C. Submit for the Department's review and approval a written operating procedure for spill reporting and emergency response to be distributed to Colby & Gale staff working in Maine. The procedure must include the Maine oil spill reporting phone numbers (e.g., 1-800-482-0777).